

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

Gamble Bay Water, Inc.,

Respondent.

DOCKET NO. UW-020538

MOTION FOR DISMISSAL
PURSUANT TO RCW 34.05.440

COMES NOW the Commission Staff, (Staff) through its representative, Mary M. Tennyson, Sr., Assistant Attorney General, and requests that this proceeding be dismissed. The basis of this motion is the failure of the Respondent Gamble Bay Water, Inc., (Company) to appear at the prehearing conference scheduled for October 28, 2002, at 1:30 PM in Olympia, Washington, either in person or by a legal representative.

FACTUAL BACKGROUND

1. On May 1, 2002, Gamble Bay Water, Inc., filed a request for a general rate increase in the form of a surcharge which the company stated would be applied to all customers. The Company's filing was assigned Docket No. UW-020538 by the Commission. The Company serves approximately 255 customers on 13 water systems in the areas of Bainbridge Island and Poulsbo, Washington. The stated purpose of the surcharge was to repay a loan from the State Revolving Fund. The proceeds of the loan are asserted to have paid for the Company's

expenditures to construct a new reservoir, replace the well pump and make other improvements to the distribution system of the Company.

2. On May 24, 2002, the Commission issued an order suspending the Company's filing, stating that the Company had not demonstrated that the increased rates and charges in its tariff revisions would result in rates that are fair, just and reasonable. The order also instituted an investigation of the Company's books, accounts, and activities. A copy of the suspension order is attached as Exhibit A to this Motion.

3. On October 7, 2002, the Commission issued and served a Notice of Prehearing Conference pursuant to WAC 480-09-260, setting the date and time for the prehearing conference as October 28, 2002, at 1:30 PM, in the Commission's Hearing Room in Olympia, Washington. A copy of the Notice is attached as Exhibit B to this Motion. The Notice was served on the Company and the Company's owners at the address for the Company that is on file with the Commission. A copy of the Proof of Service for the Notice of Prehearing Conference, prepared by Ms. Lisa Lloyd of the Commission's Record Center, is attached as Exhibit C to this Motion.

4. No attorney for the Company has entered an appearance in this docket, nor provided notice of representation of the Company. The Notice includes a provision that a party that fails to attend or participate in the prehearing conference may be held in default in accordance with RCW 34.05.440.

5. On October 28, 2002, at approximately 1:20 PM, the undersigned counsel for Commission Staff and Mr. Jim Ward, a member of Commission Staff, entered Room 206 in the Commission's Headquarters Building, the location designated in the Notice for the Prehearing

Conference. Administrative Law Judge Dennis Moss entered the hearing room and noting no representatives of the Company were present, waited approximately five minutes after the set hearing time of 1:30 PM to convene the prehearing conference. No person appeared as representative of the Company, either in person or on the Commission's bridge line. After appearance of Staff, and Ms. Julie Kurcek, who sought to intervene on behalf of herself and an informal group of homeowners on the Johanson System of the Company, Staff made an oral motion to dismiss the proceeding, due to the failure of the Company to appear. After further discussion, the Administrative Law Judge requested that the Staff's motion be presented in writing, and the prehearing conference was adjourned. As of the time that this motion is being prepared, the undersigned counsel for Commission Staff has not been contacted by the Company nor any representative regarding the failure to appear at the prehearing conference.

RELIEF REQUESTED

Due to the Company's failure to appear at the Prehearing Conference, after due and proper notice was provided pursuant to WAC 480-09-260, Staff requests that the Commission enter an order of default in accordance with RCW 34.05.440, and dismiss the Company's filing without prejudice to being refiled at a later date.

DATED this 29th day of October, 2002.

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